IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4624 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE D.H.WAGHELA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

SORATH KSHAY NIVARAN SAMITI

Versus

BHAVUBHA TAPUBHA RATHOD

Appearance:

1. Special Civil Application No. 4624 of 2001

MR YOGESH S LAKHANI for Petitioner No. 1

PS GOGIA for Respondent No. 1

CORAM : MR.JUSTICE D.H.WAGHELA

Date of decision: 27/03/2002

ORAL JUDGEMENT

Rule. Mr. Gogia, learned Counsel for the respondent waives service of rule.

2. The learned Counsel for the petitioner having on instructions, offered to immediately reinstate the respondent and the respondent having agreed to report for duty on or before 15.4.2002, the issue and challenge regarding order of reinstatement does not survive.

3. As far as the backwages are concerned, learned Counsel for the respondent fairly conceded that in view of the long pendency of the Reference during which the Reference was once dismissed for default and in view of the fact that the petitioner is a Charitable institution running a hospital, the respondent would not insist on payment of any amount by way of backwages, in the hope and with the expectation that upon reinstatement he would be paid salary at the current rate as if he had continued in his service during his unemployment and good relation shall prevail between the parties. On these submissions, the impugned order is modified to the extent that the petitioner shall not be required to pay any amount by way of backwages to the respondent and the respondent shall be reinstated with current wages at the rates at which he would have been paid on the basis of continuity of service all through out. The petition is therefore, partly allowed. Rule is made absolute to the aforesaid extent with no order as to costs.

(D.H.Waghela, J.)

*/Mohandas